

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated December 30, 2004.

Claims 1-46 are under final rejection. The record is quite clear that the rejection of the claims of record is predicated on two findings by the Patent Office. The first finding is that the cited prior art to Barritz (U.S. Patent No. 5,499,340) discloses “a reducer that contemporaneously converts data records reflecting the execution of the load modules to data records which reflect the usage of products on the computer” (independent claims 1 and 20). Secondly, the Office Action contends that the same prior art, which is a patent of one of the co-inventors of the present application, discloses “converting data records reflecting the execution of the software products on the computer substantially only by reference to the entry-gate load modules stored in the table.” See independent claims 37 and 42.

More specifically, the Office Action relies on column 10, lines 29-30 which state: “it is preferred that monitoring program 22 is run continuously, rather than for sampling.” According to the Office Action “continuously” is the same as “contemporaneously.”

With respect to the recitation of a reducer that converts data records reflecting execution “substantially only by reference to the entry-gate load modules stored in the table,” the Office Action contends that that feature of such a reducer is disclosed in the prior patent of the instant Assignee, namely at column 5, lines 66-67 and column 6, lines 1-2 which describe a preferred embodiment in which: “...the file reader 12B would scan only the modules 80a, 80b...80n associated with each directory entry 70a, 70b...70n”, the Office Action further observing that these directory entries are the “entry-gate load modules” as claimed.

Respectfully, there may be a basic conceptual point here with may have eluded the Examiner. The prior art reference discloses and describes (see Fig. 1) two major components which can be run independently, but which ultimately produce results which need to be correlated. These two major components are the monitoring program 22 and the surveying program 12. The cited reference describes the monitoring program to be a program that collects event data, i.e., information about the execution of load modules. This data is collected over some periods of time and, by itself, provides extremely voluminous information that does not

reveal which products have been executed. For example, a given software product may have as many as one thousand different load modules associated therewith. They can be executed in different orders or sequences or not executed at all in certain applications. Another independent mechanism is necessary to be able to reduce this massive body of data describing load-module execution to more manageable information which comprises “data records which reflect the usage of products on the computer.” “Reducing” load-module execution to product execution is a difficult task that can result in a 1,000 to 1 data reduction.

In the context of the cited ‘340 reference, the surveying program 12 is utilized to build up a knowledge base which correlates and provides basic logic that enables translating data obtained by the “monitoring program” to data which reflects usage of products (rather than load modules). As described in the ‘340 patent, the surveying program is run from time to time to develop such a database and to update such a database. Similarly, from time to time, the database information is correlated with information obtained from the monitoring program to obtain the “data records which reflect the usage of products on the computer” as recited in independent claims 1 and 20. That is the function of the claimed “reducer.”

In the prior art, even with a monitoring program that runs continuously as described in the section cited by the Examiner, the task of reducing that massive amount of information which is continuously collected is delegated to a correlator that performed its function from time to time by taking chunks of the data being collected and converting it to data records reflecting the usage of “products.” The text upon which the Office Action relies does not describe a reducer and does not describe a correlator. Rather, it describes the monitoring program 22 which is not at issue here. The monitoring program is not the claimed data reducer.

In marked contrast to the prior art, the claimed “reducer” operates “contemporaneously” to, essentially, convert the data that is being collected and which is expressed in terms of the usage of load modules “to data which reflects the usage of products” on “products.” In claim 1, the term “contemporaneously” does not mean continuously. Claim 1 does not require that the monitoring software which is mentioned in the second paragraph of claim 1 must be operated to monitor the execution of load modules on a computer “continuously.” Not at all. Even if that monitoring software operated for five minutes every hour, the essence of the invention of claim 1

would not be lost because it focuses on “the reducer that contemporaneously converts” the five minutes of data records reflecting the execution of the load modules to data records which reflect the usage of products on the computer during those five minutes. Nothing equivalent is disclosed in the prior art of record. Therefore, independent claims 1 and 20 and their dependent claims clearly distinguish over the prior art.

Turning to independent claims 37 and 42 and their recitation of a reducer or a function which converts data records reflecting the execution of the software product on a computer “substantially only by reference to the entry-gate load modules stored in the table”, the reliance on the Office Action of the disclosure at column 5, lines 66-67 and column 6, lines 1-2 of the cited reference requires closer scrutiny.

In the first instance, applicant once again emphasizes that the claims in question refer to an “entry-gate load module.” This is a special type of a load module. The text which the Office Action mentions at the bottom of column 5 and at the top of column 6 does not mention an entry-gate load module. Rather, it mentions an “entry” in a library. One can have an “entry” in an accounting ledger book or in a computer record, or in a library card catalog and so on. It is simply inappropriate and unfair to the applicant for the Examiner to match words in isolation, in a robot-like fashion, and contend that their disclosure and meanings are the same. The “entries” mentioned in the referenced text of the prior art are not at all identified nor described as comprising “entry-gate load modules”.

Even further, the referenced text does not describe anything which concerns the conversion of data records from load module information to product usage information. Rather, a file reader 12B is utilized to scan the contents of files to discern therein a special type of text which may be preceded by a term such as “copyright” and utilize the text which precedes it or follows, in order to obtain an insight as to which product a particular load module or data file is associated with. Therefore, neither structurally nor functionally can one equate the text which is cited from the prior art with the subject matter which is disclosed and claimed in the aforementioned independent claims. In view of these comments, it is further respectfully submitted that all of the claims which are dependent on the independent claims are similarly patentable over the prior art.

Accordingly, the Examiner is respectfully requested to reconsider the claims, and pass the application to issuance.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 28, 2005:

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Respectfully submitted,

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